

Application No. 10/815087
Page 4

Amendment
Attorney Docket No. F02.2B-11374-US01

Amendments To The Drawings:

None.

Application No. 10/815087
Page 5

Amendment
Attorney Docket No. F02.2B-11374-US01

Remarks

This Amendment is in response to the Office Action dated **September 26, 2005**.

The Applicant has carefully reviewed the sole reference cited, U.S. Patent 3,453,939 ('939) to Pollitz et al.

Claims 1-5 §102(b) Pollitz US 3,453,939

Claims 1-5 were rejected as being anticipated by Pollitz et al, U.S. Patent 3,453,939.

The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention. *In re Robertson*, 49 USPQ2d 1949 (Fed. Cir. 1999); *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); *Continental Can Co. USA Inc. v. Monsanto Co.*, 20 USPQ2d 1746 (Fed. Cir. 1991); *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990); *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 7 USPQ2d 1315 (Fed. Cir. 1988); *In re Marshall*, 578 F.2d 301, 198 USPQ 344 (CCPA 1978); *In re Arkley*, 455 F.2d 586, 172 USPQ 524 (CCPA 1972).

Here, the '939 reference is directed to an asphalt (bituminous) paving truck that lays down a layer of hot asphalt over a roadway as the wheeled tractor and trailing screed assembly travels down the road. Not only does it involve asphalt and not concrete, but the '939 reference has no machine for casting panels on an elongated casting bed for any material. Claims 1-3 of this invention are not anticipated by the '939 reference since each and every element of the claimed invention are not found in the reference, nor are they inherent in the reference. The '939 reference has no elongated casting bed having a bottom onto which material is laid. Rather, the '939 invention lays asphalt onto a road bed. It does not create concrete panels. The '939 patent does not use concrete. The claims at issue do not involve the use of a tractor or a towed screed assembly.

In fact, a close reading of the '939 reference shows that the screed 92 is apparently a single piece and has no segments of any sort. The mold board 97 may have shoe plates 98, but those are only for pre-screeding and do not allow for a final product with varied height screeds. The Office Actions reference to Figs. 3-6 and metering gates 32 concerns how the material is fed

Application No. 10/815087
Page 6

Amendment
Attorney Docket No. F02.2B-11374-US01

to conveyors, and not to the eventual screed. The metering gates have nothing to do with the eventual screed. Thus, there is no teaching or suggestion of a segmented screed, even for use in asphalt, let alone for concrete planks. The rejection is respectfully traversed.

Claims 4 and 5 are also not anticipated by the cited reference. Again, the claims at issue clearly involve a concrete screed for screeding concrete, not asphalt. In addition, the claims at issue specify a concrete casting bed, and not a wheeled tractor and trailer. The rejection is respectfully traversed.

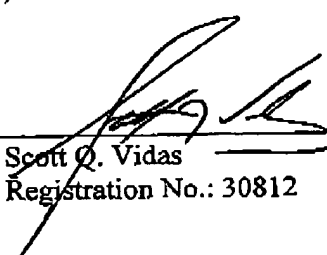
It should also be recognized that nothing in the cited reference would make any suggestion to one of ordinary skill in the art of how to so modify the reference that it could be employed with concrete, let alone with a concrete casting bed. The invention as claimed is clearly not obvious over the reference.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: December 13, 2005

By: _____


Scott Q. Vidas
Registration No.: 30812

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

f:\wpwork\sqv\11374us01_and_20051205.doc